

# **PLANNING COMMISSION**

## **ACTION MINUTES**

**TUESDAY, JANUARY 21, 2003**

Chair Mathewson called the meeting to order [\[u1\]](#) at 7:01 p.m. at the Twin Pines Senior and Community Center.

### **1. ROLL CALL:**

Present, Commissioners: Mathewson, Parsons, Gibson, Feierbach, Frautschi  
Absent, Commissioners: Wiecha, Torre (arrived at 7:06 p.m.)

Present, Staff: Community Development Director Ewing (CDD), Principal  
Planner de Melo (PP), Deputy City Attorney Zafferano (DCA),  
Recording Secretary Flores (RS)

### **2. AGENDA AMENDMENTS:**

Chair Mathewson announced that item 4C, Minutes of 12/17/02, have been removed from the agenda and will be included with the 2/4/03 agenda.

Responding to Chair Mathewson's request for information about changes to the Brown Act, the State law that governs conduct of public meetings, DCA Zafferano stated that when a Commissioner needs to recuse him or herself from voting on a matter because of a conflict of interest, the revised law states that the Commissioner has to announce the conflict at the beginning of the item. The Commissioner then has to leave the room, but is permitted to comment on the project during the time that everyone else comments on the project, and following the Commissioners' comments, the Commissioner needs to leave the room again until the item is completed.

### **3. COMMUNITY FORUM (Public Comments): None**

### **4. CONSENT CALENDAR:**

#### **4A. MINUTES OF 11/19/02**

**MOTION:** By Commissioner Feierbach, seconded by Commissioner Gibson, to approve the Minutes of November 19, 2002.

**Motion passed.**

**Absent: C Wiecha, C Torre**

#### **4B. MINUTES OF 12/3/02**

**MOTION: By Commissioner Parsons, seconded by Commissioner Frautschi, to approve the Minutes of December 3, 2002.**

**Motion passed. C Parsons abstained due to his absence from that meeting.**

**Absent: C Wiecha, C Torre**

**4C. MINUTES OF 12/17/02 (postponed until meeting of 2/4/03)**

**5. PUBLIC HEARINGS:**

Commissioner Torre arrived at 7:06 p.m.

**5A. PUBLIC HEARING - 1540 RALSTON AVENUE**

**To consider a Conditional Use Permit and Design Review to construct a new 380-square-foot greenhouse enclosure addition located on the second floor of the Notre Dame High School building. The greenhouse would be located on the interior of the school, at the courtyard. (Appl. No. 02-0071)**

**APN: 044-360-060 Zoned: PD (Planned Development)**

**CEQA Status: Exempt**

**Chris Read (Applicant)**

**Notre Dame High School (Owners)**

Commissioner Frautschi recused himself from discussion of this item and left the room.

PP de Melo summarized the staff report and was available for questions.

C Feierbach asked if the addition would be visible from Ralston Avenue and questioned the placement of the addition. PP de Melo responded that the distance between the addition and Ralston Avenue is at least 200-300 feet, and would be difficult to pinpoint from Ralston but is not completely screened. He added that the applicant wanted to connect it directly to the Science Building and not create a gap of open deck and have a clean passageway from the building to the actual greenhouse.

Roger Hagman, architect for the project, noted that he and the applicant take no exceptions to any of the conditions and agree with the staff report. Responding to C Feierbach regarding location, he stated that they really wanted the addition next to the Science classrooms and believe that it is the least obtrusive placement. He added that it is an "invisible" transparent building and will not affect the architecture of the building.

C Mathewson opened the Public Hearing.

Rick Frautschi, 1500 Folger Drive, speaking as a private citizen, stated that he supports the applicant's efforts to provide additional science space and to fulfill their creek restoration plan, however, asked that Commissioners consider the following issues in their deliberations:

- Site is in a PD zoning district and as such Commissioners are obligated to be even more diligent in the application of the rules and standards. He was surprised that the actual school building is not listed as an historically significant building in the 1991 Historical Resources Inventory.
- The structure is over 75 years old and any addition to this historic structure must be approached with forethought and sensitivity.
- Believes the new gymnasium blends well with the original schools buildings.
- He is not opposed to the building of a green house, but since it will be visible from Ralston Avenue he urged careful consideration of the design since it will have a visual impact on the overall appearance of the building from that perspective.
- There are dozens of greenhouse options available in prefabricated, semi-custom and customized models. He feels that the modern appearance of the proposed project is not completely harmonious with the existing significantly historic building.
- He urged the Commission to have the applicant rethink the project in terms of the Principles for Design Review in Chapter 13.5.3 and continue the project with guidance that would more fully support design review findings A and B of the staff report, particularly on use of materials, relationship to adjacent elements and proposed exterior color, something other than the bronze anodized aluminum.

Chris Reed, science teacher at Notre Dame High School, noted that the placement was chosen because it is south facing and has good sun, is easily accessible to science classrooms and for security reasons, and is not visible unless somebody was really looking for it. The materials chosen were the highest quality and would last a long time. She did not feel there are a lot of greenhouse designs available and the proposed transparent structure is the best plan they could come up with. Responding to Chair Mathewson's concern about the structure being south facing, Ms. Reed noted that there is extensive ventilation and exhaust fans, and a swamp cooler is always an option to bring the temperature down. Chair Mathewson asked if there had been any thought to painting it to match the color of the existing building instead of the proposed dark brown. Mr. Hagman stated that the dark brown was selected because it is consistent with the windows of the new gym.

C Torre asked staff to speak to the historic nature of the building. PP de Melo had no historical analysis but to the best of his knowledge this building is not an historic structure. CDD Ewing stated that there is no historic ordinance that would allow them to make it a recognized historic structure.

**MOTION: By C Parsons to close the Public Hearing, seconded by C Gibson. Motion passed**

C Parsons stated his support of the project, noting that the brown picks up the brown in the new building, the windows are in proportion and it is in a good location. C Torre concurred. C Feierbach would prefer it to be more in conformance with the appearance of the high school but cost would be prohibitive. Chair Mathewson would have preferred something squared rather than rounded and asked the applicant to look into the possibility of matching the color to the building it will be

attached to. The applicant stated that they would look into the possibility of matching the color but that a straight line vs. the curve was not available.

**MOTION: By Commissioner Gibson, seconded by Commissioner Parsons, to adopt the resolution approving a Conditional Use Permit and Design Review at 1540 Ralston Avenue.**

**Ayes: Gibson, Parsons, Feierbach, Torre, Mathewson**  
**Noes: None**  
**Absent: Wiecha**  
**Recused: Frautschi**

**Motion passed 5/0/1/1**

Chair Mathewson noted that his affirmative vote was based on the commitment that the applicant will at least check into the color change to see if it is feasible.

CDD Ewing confirmed with the Commission that if the applicant comes back with a color that matches the building it would be acceptable.

Chair Mathewson noted that the item may be appealed to the City Council within ten days.

## **5B. PUBLIC HEARING – 120 SEM LANE**

**To consider a Design Review and Variance to allow location of a 50-foot-high pylon sign for an Extended Stay America hotel on a 1.35-acre site. The hotel is currently under construction.**

**(Appl. No. 03-0003)**

**APN: 040-371-040; Zoned: (C-3) Highway Commercial**

**CEQA Status: Categorical Exemption per Section 15311, Class 11(a)**

**Extended Stay of America (Applicant/Owner)**

PP de Melo summarized the staff report, noting that the applicant had requested a change to their approved sign plan for the project. Staff recommended approval with the conditions as specified in Exhibit A.

*See the attached verbatim transcript of the questions and discussion of this item.*

**MOTION: By Commissioner Frautschi, seconded by Commissioner Torre, to close the public hearing. Motion passed.**

**MOTION: By Commissioner Feierbach, seconded by Commissioner Frautschi, to deny the Variance application due to the inability to make the Variance Finding for Section 14.5.1.a. of the Zoning Ordinance**

**Ayes: Feierbach, Frautschi, Parsons, Mathewson**  
**Noes: Gibson, Torre**

**Absent: Wiecha**

**Motion for Denial Passed 4/2/1**

Chair Mathewson noted that staff will bring a formal resolution of denial back to the Commission for final approval at the next meeting. It will then be appealable to the City Council within ten days after that meeting.

**6. NEW BUSINESS**

**6A. Consideration of Request for Extension of Single-Family Design Review Granted by Planning Commission on December 4, 2001 for 917 Anita Avenue.**

PP de Melo summarized the staff report, concluding that staff believes the findings for granting an extension can be made in the affirmative.

C Torre suggested that, due to the large number of single-family design reviews that come back to the Commission asking for an extension, consideration be given to allowing staff the discretion to provide a six-month extension. Chair Mathewson agreed that this would be a topic to ask staff to bring back to the Commission for future discussion.

Responding to C Gibson's question, PP de Melo stated that building permits had not yet been pulled for this project.

Cheryl Novak, applicant, stated that the permits had not been pulled in the Spring of 2002 partly because of the economy and their heavy work schedules, and that they had not yet selected a contractor.

**MOTION: By Commissioner Gibson, seconded by Commissioner Frautschi, to close the public hearing. Motion passed.**

**MOTION: By Commissioner Torre, seconded by Commissioner Parsons, to adopt the resolution to approve an extension of a Single-Family Design review at 917 Anita Avenue with the conditions as attached.**

**Ayes: Torre, Parsons, Frautschi, Feierbach, Gibson, Mathewson**

**Noes: None**

**Absent: Wiecha**

**Motion passed 6/0/1**

**6B. Consideration of Request for Extension of Conditional Use Permit and Single-Family Design Review Granted by Planning Commission on December 4, 2001 for 192 Oxford Way.**

PP de Melo summarized the staff report, concluding that staff believes the findings for granting an extension can be made in the affirmative.

Applicant Ulka Mohan was available to answer questions.

C Frautschi thanked the applicant for the letter stating what needs to be done, adding that he wished other applicants would follow her example.

**MOTION: By Commissioner Frautschi, seconded by Commissioner Torre, to close the public hearing. Motion passed.**

Chair Mathewson suggested that, if staff brings this to the Commission for a revision of any sort, he would like to codify that a similar high-quality letter be required so that the Commission can really see what the reasons are for requests for extension.

**MOTION: By Commissioner Parsons, seconded by Commissioner Frautschi, to adopt the resolution to approve an extension of a Conditional Use Permit and Single-Family Design Review at 192 Oxford Way with the conditions as attached.**

**Ayes: Parsons, Frautschi, Feierbach, Gibson, Torre, Mathewson**  
**Noes: None**  
**Absent: Wiecha**

**Motion passed 6/0/1**

**6C. Consideration of Request for Extension of Conditional Use Permit and Design Review Granted by City Council on August 14, 2001 for 470 Ralston Avenue (ARCO).**

PP de Melo summarized the staff report, concluding that staff believes the findings for granting an extension can be made in the affirmative. He deferred C Torre's request for more information about the reasons for the delay to the applicant. Responding to C Gibson, he stated that the applicant is Tate and Associates, who are representing the property owner, BP West Coast Products.

CDD Ewing interjected that staff had checked the Zoning Ordinance and learned that the Commission's decisions to grant requests for extension are appealable to the City Council. Since the applicants and interested parties in attendance for items 6A and 6B were not so informed, Chair Mathewson asked staff to notify them of that fact

Chair Mathewson asked staff if the applicant is ready to start construction if the extension is approved at this meeting. PP de Melo responded that it was his understanding that they could be ready to go within the next 30 to 60 days. CDD Ewing added that they could have a problem with timing until after the extension is granted.

Peter Tobin, representing Tate and Associates, architects and engineers for the project, introduced himself and then turned the presentation over to Don Firenze.

Don Firenze, Acquisition Development Manager for BP West Coast Products, explained that the property has been leased to the dealer for many, many years and that they have entered an agreement to sell the property to the dealer and allow him to own the facility. The dealer was not quite ready with the financing but now has a written loan commitment from a bank. In addition, ARCO has come forward and said that they have made a company commitment to build the facility even if something goes wrong with the dealer's loan. They are anticipating going into construction in about 60 days.

**MOTION: By Commissioner Gibson, seconded by Commissioner Torre, to close the public hearing. Motion passed.**

C Feierbach saw no problem with granting the extension.

C Frautschi asked that a condition of granting the extension require a letter in writing from ARCO guaranteeing that they will proceed with the project if the dealer cannot. Mr. Firenze stated that he could obtain such a letter. CDD Ewing stated that he would not want the Commission to expect that a letter is going to give them ironclad assurance that the project will go forward because decisions do change – that this is a permit for a one-year extension, and agreed with C Torre that a permit is a right to do something, not a mandate to do it. C Torre proposed that they move forward with the extension without a special condition.

Mr. Firenzi stated that ARCO is not pumping one gallon of gas at the station and is losing \$20,000 per month for every month it is not open, and gave his word that they are as motivated as anyone can be to get the project going.

**MOTION: By Commissioner Torre, seconded by Commissioner Gibson, to adopt the resolution to approve an extension of a Conditional Use Permit and Design Review at 470 Ralston Avenue with the conditions as attached.**

<b>Ayes:</b>	<b>Torre, Gibson, Feierbach, Parsons, Mathewson</b>
<b>Noes:</b>	<b>None</b>
<b>Abstain:</b>	<b>Frautschi</b>
<b>Absent:</b>	<b>Wiecha</b>

**Motion passed 5/0/1/1**

Chair Parsons announced that this item is appealable to the City Council within 10 days.

Chair Mathewson declared a recess at 8:40 p.m. Meeting reconvened at 8:45 p.m.

#### **6D. City Council Priority Calendar**

CDD Ewing noted that the Staff Memo and attachments ask the Commission to look at two projects that were priorities from the Council's last Priority Calendar but not high enough to place above the line. The projects are 1) bringing the secondary dwelling unit ordinance up to date with

new California law and 2) the amendment to the San Juan Hills Area Plan transfer of density provisions.

Chair Mathewson recommended two additional items: 1) reconsideration of the entire Parking Ordinance, and 2) going through the Zoning Ordinance and redoing it to bring it into consistency with itself, with other plans, and with the Municipal Code.

C Frautschi asked what the schedule is for the consultant working on the Harbor Industrial Area zoning text amendment and other position papers. CDD Ewing responded that he believes the Council would like to get an application submitted to LAFCO for annexation hand in hand with the property owners either late this year or early next year, and briefly mentioned some of the steps that need to be taken before that can happen.

Discussion ensued regarding item A, Conceptual Review/Preliminary Review Procedures. CDD Ewing explained that the planned development is a zone that is tied to a specific site plan and the site plan itself becomes the zoning standards. The placement of the buildings on the site plan establishes the mandated setbacks for that property and the uses and all of that, but especially the placement and size of buildings become part of the PD. If someone wants to amend that plan later, the findings for amending the PD are those assigned to conditional uses and those findings only talk about the use; there's no discussion of site plan issues, on-site circulation, relation to surrounding buildings, etc. Physical planning issues are not captured by the use permit findings. He believes Village Drive is going to prove the problem with that because that project is going on an appeal to the City Council and staff is not going to recommend the Commission's action because they think it's a problematic legal issue. Staff is concerned that the Commission did not adequately give reason. The use permit findings are the issue and he did not believe that they suit what the Commission wanted done when they looked at an amendment to a PD. The amendment to a PD is kind of a hybrid. It's not an exception. It's changing the standards of the zone that is only assigned to that lot. It is really a zoning amendment. He suggested that they can look at design review findings and zoning amendment findings, but those are fairly generic. He believes it is worth looking at because he does not believe the findings as presently written do what the Commission wants them to do. There was a consensus to redefine item A and call it Planned Development Amendments.

There was consensus to add the Parking Ordinance to the list and to postpone the Comprehensive Zoning Standards review until completion of the General Plan Update.

C Feierbach suggested dropping Item K, Hillside Development Regulations, Phase 2, from the list because she feels it would be detrimental to the San Juan area because it could create more housing, which is something she would want to eliminate as much as possible for environmental reasons.

C Torre disagreed. She felt that to move down to 900 as the allowed square footage, 400 of which is supposed to be for a garage, makes it clear to her that this is only useful as a transfer. It's not useful as a house. She believes it is a matter of pragmatics; it's not possible to effectuate a transfer because of the limitations on the area in which you can do it and she is concerned that you may have a taking. She believes that if you want to protect the City from lawsuits the transfer area needs to be broadened. CDD Ewing stated that Council had heard from property owners that they would



like to do transfers but it can't be done because of the statistical area and roadway limitations. A consensus was not reached to drop this item from the list.

C Frautschi recommended dropping Item I, Historic Preservation, from the list. A consensus was reached to drop this item.

There was a consensus to keep Exceptions to Development Standards on the list.

C Torre stated that she would be in favor of dropping the Delayed/Failed Development Projects approach because she thinks when somebody is starting construction on a site, the financial exposure is bad enough. No consensus was reached on this item.

CDD Ewing summarized that Item I, Historic Preservation, will be dropped, Item L, Parking Standards, added, and Item A redefined as Planned Development Amendments. The Commissioners marked their ballots, with the following ranking resulting:

A =3, B= 4, C=5, D=7, E=6, F=8, G and H tied for 9, J=2, K=11, and L=1.

CDD Ewing stated that he will bring the item back to the Commission to show them how they rank beneath the current line and then they may want to make some suggestions for changes on moving some items down below the line in order to bring something else up.

## **7. REPORTS, STUDIES, UPDATES, AND COMMENTS**

CDD Ewing reported on the following City Council actions:

- Reviewed the work the Commission had done on the Single-Family Design Review Ordinance. Council agreed that all of the things the Commission wanted to add looked good and they added solar exposure as well. Staff will be working on that and will bring it to the Commission with new language. He added that the thing that was not discussed is that the planning application fee for even 401 square feet is \$3,000, which could easily approach \$4 to \$5 thousand for a small addition to a home when more items are added. He believes the Commission and Council need to talk about whether there are some places where some administrative thresholds can be created to reduce the expense. An example could be if it's a first floor addition between 400 and 800 square feet, it could be approved by staff, but all second story additions would go to the Commission.
- They said "full speed ahead" on the Visioning Economic Development and General Plan Update. The first effect that will have on the Commission is that they are planning an early March economic development training program to be conducted by the experts at California Association for Local Economic Development. Thirty community leaders would meet to learn some of the basic vocabulary and tools of economic development.

C Parsons stated his concern that some trees in the City may need to have staking removed or are staked so that the rubber around them isn't too tight and might be killing the trees. Also, three trees on Waltemeier Street, alongside the Safeway, are planted in a sidewalk with metal grates and the grates are cutting the trees. He would like the Parks and Recreation Department to do a

comprehensive walk around town. CDD Ewing agreed to forward his request to Parks and Recreation Director Mittelsdadt.

C Torre asked if there is a date when Council will review the Doctors' Building. RS Flores stated that the item is slated for Council's second meeting in February.

C Frautschi reported as the liaison to what was formerly called the Green Task Force. They have had three meetings, and changed the name to the Outdoor Recreation Task Force. They have heard from the recreation and open space people as to what they want as far as recommending a bond, and a walkaround is scheduled for the 26<sup>th</sup> to look at all seven recreational sites that they hope to renovate. Also, they have decided that the method used to survey people will be by telephone.

CDD Ewing reported that he has not heard anything from the Notre Dame Working Group Task Force.

**8. PLANNING COMMISSION LIAISON TO CITY COUNCIL MEETING OF  
TUESDAY,  
January 28, 2003.**

Liaison: Commissioner Mathewson  
Alternate Liaison: Commissioner Feierbach

**9. ADJOURNMENT:**

The meeting adjourned at 9:26 p.m. to a regular meeting on February 4, 2002 at 7:00 p.m. at Twin Pines Senior and Community Center.

---

Craig A. Ewing, AICP  
Planning Commission Secretary

*Audiotapes of Planning Commission Meetings are available for review  
in the Community Development Department  
Please call (650) 595-7416 to schedule an appointment.*